



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: NOVEMBER 16, 2022

IN THE MATTER OF:

Appeal Board No. 624176

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determinations disqualifying the claimant from receiving benefits, effective March 15, 2021, on the basis that the claimant voluntarily separated from employment without good cause; and, in the alternative, disqualifying the claimant from receiving benefits, effective March 15, 2021, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by prior to March 15, 2021, cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed June 02, 2022 (), the Administrative Law Judge sustained the initial determination of voluntary separation without good.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. The claimant contends that although the employer denied her religious exemption request, it approved those submitted by other employees. The claimant should be given a further opportunity to present testimony and evidence in this regard. To that end, the employer is also directed to produce a witness or witnesses with first-hand knowledge of whether other employees

were granted religious exemptions from the mandatory vaccine policy and, if they were, the reason(s) why they were granted and the claimant's denied.

The parties may produce any other relevant witnesses or documents. The Administrative Law Judge may take any further testimony and evidence necessary to decide the case.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge is rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of voluntary leaving employment without good cause, only, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER